

New Rights of Way Regulations – An Overview for Managers, Resource Specialists and Support Staff

**A Telecast Originating
from the
BLM National Training Center in Phoenix, Arizona**

February 17, 2005

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Announcer: The Bureau of Land Management satellite network presents live from the BLM national training center in Phoenix, Arizona, New Rights-of-Way Regulations: An Overview for Managers, Resource Specialists and Support Staff. And now the host of your program, Stephanie Snook.

S. Snook: Hello. Welcome to our overview of the new BLM right-of-way regulations. In this program we will be discussing the major changes in the final cost recovery right-of-way regulations which are anticipated to be published in March 2005. These new regulations cover rights-of-ways issued under both the federal land policy and management act and the mineral leasing act. I would like to introduce the other folks with us today. First, Ray Brady, lands and realty manager in our Washington D.C. office is here. Welcome, Ray.

R. Brady: Thank you very much, Stephanie. It is a pleasure to be with you today. I would like forward to our discussion today and the opportunity to communicate to our BLM field offices on the scope of the new regulations. Thank you.

S. Snook: Thank you. From New Mexico, Ed Roberson is with us. Ed is the field manager at the Las Cruces field office. Welcome, Ed, and thank you for agreeing to join us and give us the field perspective.

E. Roberson: Glad to be here, Stephanie n Arizona with you all. It's still a little wintertime in Las Cruces and it's springtime here in Phoenix.

S. Snook: Also joining us is Scott Forsell, a realty specialist from Coeur D'Alene, Idaho. Welcome.

S. Forsell: It's good to be here. Thank you.

S. Snook: Completing our panel is Lucas Lucero project manager in the Las Vegas, Nevada, office. Hi, Lucas.

L. Lucero: Glad to be here and want to say hello to my friends and co-workers in Nevada and Arizona.

S. Snook: Our panel will share their perspectives on how the new right-of-way regulations will affect our work process and personnel at all levels of BLM, including the field office where personnel are involved in processing right-of-way applications such as the realty specialist, land law examiners, other resource specialists, collections and billing personnel, the field manager as well as those involved with compliance, monitoring and termination of rights every ways. Second, at the state office and Washington office level, personnel who monitor and track right-of-way processing and annual work plan accomplishments. Third, personnel at the National Business Center involved with right-of-way billing and tracking. Internal and external websites are being developed that will be devoted to providing information on the revised right-of-way regulations. The website will not be available until the final rule is published, which is expected to be in March 2005. There have already been a lot of questions about these new regulations, and we'll try to answer many of them in this program today. Now to kick things off, Fran Cherry, deputy director of BLM has prepared some opening remarks for us.

F. Cherry: Welcome. Currently the BLM oversees 89,000 right-of-way grants across the country. While I don't need to tell this group just how important those right-of-ways are to our customers and to our nation, I do want to thank you, each of you, who are involved in helping process these cases. Your hard work and dedication are truly appreciated. As we roll out these new right-of-way regulations, I know you will continue to rise to the challenge of this workload and continue to provide excellent customer service. The BLM is about to publish a final rule that updates and stream lines the right-of-way program to better serve right-of-way customers while reaffirming the BLM's commitment to protecting public health, safety and the environment.

American tax payers have a right to expect that we recover a fair share of processing and monitoring costs. The cost recovery fees we charge for the right-of-way program have not changed in nearly 20 years. Consequently, the new rule for re -- revises cost recovery policies and procedures and adjusts these fees to account for increases inflation since the previous regulations went into effect in the mid-1980s. The details these changes in cost recovery will be discussed further in the course of this broadcast. You will also hear more about the other provisions of the final rule. These topics include establishment of a customer service standard for processing right-of-way applications; redefinition of cost recovery categories based on federal work hours to process or monitor the authorization; establishment of a master agreement cost recovery category; automatic annual adjustment of cost recovery fees; rent payment options to reduce administrative billing costs for the BLM and grantholder; increases to the strict liability cap from 1 million to 2 million and establishment of cost recovery categories for the right-of-way assignments and renewals. This final rule is of significant importance to the BLM to recover costs of processing and monitoring right-of-way authorizations. The only way for BLM to be properly reimbursed for our costs is to accurately determine the appropriate cost recovery category.

In some cases, we have fallen short of that requirement. In the future, BLM managers and realty staff must appropriately identify the appropriate cost recovery category as well as adhere to the new

customer service standards in order to ensure the collection of these reasonable fees and to provide the level of service which our customers expect. This new rule will provide some challenges because we will be doing things a -- a few things differently than in the past. I'm confident that you will embrace these changes and in the bureau tradition work together to be as successful as ever. Again, thanks for your commitment and dedication.

S. Snook: As Fran mentioned our current right-of-way regulations haven't changed in nearly 20 years. He stressed our legal requirement to accurately determine cost recovery categories and to adhere to the new customer service standards. Now let's turn it over to Ray to talk about the background and importance of these new regulation changes. Ray?

R. Brady: Thank you, Stephanie. As most of you know, already know, BLM's right-of-way program is large and touches almost every realty specialist, resource specialist and manager in the bureau. Let me share with you some facts and figures to illustrate the scope of the program. As you can see BLM administers over 89,000 right-of-way authorizations, some 27,000 authorizations under the mineral leasing act and about 62,000 authorizations under the federal land policy and management act which we know as FLPMA. That's a lot of customers. And the workload isn't getting any lighter. Let's take a look at how this translates to work completed in our local BLM offices. In fiscal year 2004, BLM processed over 13,500 right-of-way applications, issued 3,700 new or amended right-of-way grants and issued over 9800 right-of-way assignments or renewals. That's a lot of work and shows the dedication you have demonstrated in getting the job done.

I would like you to know how much we appreciate your continued efforts to manage the workload that you have been given and to provide quality customer service on a daily basis in your local offices. Thank you very much. We need to continue to make program improvements, however. Many of you have asked why BLMers are revising the right-of-way regulations. The story begins in 1995 when the office of the inspector general issued a report that was very critical of the fees that BLM was collecting in the right-of-way program. FLPMA and the mineral leasing act both authorize BLM to be reimbursed for the costs involved with processing right-of-way applications. The OIG audit clearly showed the fees BLM collected were nowhere near the costs we incurred to administer the program. In addition, the OIG noted that the fees BLM currently charges were established by regulations in 1987 and that the fees couldn't be adjusted without changing those regulations. Let's take a look at the cost recovery funds that BLM received to process those 13,500 applications in 2004.

A total of some \$7.2 million. You might think that that's a lot of money, but let's look at how the numbers really break down. Of the applications subject to cost recovery, 3,000 applications generate \$1.1 million in fees, while only 41 of those applications generated the remaining 6.1 million dollars in fees. One of those 41, the Transalaska pipeline system generated 3.2 million dollars alone. Expressed as a percentage, 99% of the applications that BLM processed provided only 15% of our total cost recovery fees. There are two reasons for the small amount of money that we received. First, some of these applications are not being placed in the proper cost recovery category.

Second, the fees we charge are still based on the schedule that was established in 1987 and hasn't changed. As we all know, the costs of living and the costs of doing business has changed considerably since 1987. Between '87 and today the implicit price deflator, and this inflation index, has risen by 51%. The consumer price index has risen 73%. But BLM is still charging processing fees based on costs established some 18 years ago. Obviously something had to be done, and the answer was to revise the regulations. These new regulations were developed by a team of field, state office and Washington office BLM personnel with input from many organizations outside BLM over a period of five years. I want to express my personal thanks to the BLM right-of-way regulation team members who will be listed at the end of this telecast and tell them that I really appreciate all the hard work that they've done to make these new regulations a reality.

Now let's talk about the five objectives we wanted the new regulations to meet. The first objective is to recover agency costs for processing applications, issuing authorizations and monitoring use. I mention that costs to administer the right-of-way program have risen over time but our cost recovery fees have not. The new regulations update our current cost structure to the present and also provides for automatic adjustments to keep pace with inflation. The second objective is to operate the BLM right-of-way program in a more business-like manner. This was a GAO recommendation and the new regulations will allow us to operate more like a business. For example, we now have a cost recovery category called master agreements that will allow us to work more efficiently with a right-of-way applications -- or applicant that has several applications. Our new collection procedures, rent collection procedures, also operate in a more business-like manner allowing the collection of late fees for those that do not pay in a timely manner.

The third objective is to improve responsiveness to our right-of-way customers. For the first time we have a regulatory responsibility to process a right-of-way application in a timely manner. In the event that we cannot meet that time frame, we have a requirement to notify the applicant of the reason and to inform the applicant of the date that we do expect to provide a decision on their application. Our fourth objective is to protect the public health, safety and the environment. Much has changed in the area of environmental protection since the old regulations were published in 1987. We've included measures in the new regulations to address hazardous materials and cleanup. The listing of threatened and endangered species and we have provided liability standards that better reflect how business is done in 2005. Our last objective is to provide interagency consistency. For example the Forest Service is currently working on new regulations that will also incorporate BLM's cost recovery procedures.

Our new regulations will improve consistency between the two federal agencies and make it easier for our customers to understand the procedures involved with each. We've also changed the format of the new regulations. The new regulations come in a plain language format that you may have seen before using questions and answers, and they are written in the order of actions taken to file and process an application. In addition, the new regulations have a different numbering system that should be more consistent and easy to follow between the regulations and the corresponding manual and handbook

sections. Hopefully the new format will be easier for both our employees and our customers to follow. Thank you, Stephanie.

S. Snook: Thank you, Ray, for that good background and overview. Based on what you said, it sounds like the new regulations update, clarify and improve the 1987 right-of-way regulations and provide for improved customer service while providing measures to protect the environment. Ed, you've had a chance to review these new regulations. From your perspective how do you think they will affect the field office staff?

E. Roberson: Stephanie, I have reviewed them. As Ray mentioned, we are required to recover the costs associated with processing right-of-way application. However, the costs we're recovering now are the same as they were in 1987. We began using this current system of cost recovery categories. They were fairly reasonable costs then, but now 20 years later, they're way out of line with what it actually costs us to do business. So without a doubt they need to be adjusted to do more closely align the cost of doing business today. This is particularly important to us at the field level because the money we collect to cover costs stays in our field office where we can use it to get the work done. We need to be collecting fees that are compliant with FLPMA and the mineral leasing act and more closely reflect the costs of doing business today in 2005. I'm also happy to see that the cost recovery fees we collect will be tied to an inflation index so that we don't get behind as we have in the current system. I think it's a fairway to readjust fees both to BLM and to our customers. We increase the revenue, we're going to see from these regulations, but it comes at a cost, though.

The new regulations place greater emphasis on our field offices processing right-of-way applications in a timely manner. We also have the potential for additional workload requirements under the new customer service standard. So while we're going to get more cost recovery or see more cost recovery, we're going to need to track the applications more closely and work harder to process it within a defined time frame. I do like the customer service standard, though. It makes good business sense, and I believe our customers deserve to know that when they expect to get an answer from us on their application. It may not always be the answer they want, but they should have an opportunity to know when they can expect it. Anything -- another thing I'm pleased to see with the new regulations is the opportunity for greater resource protection during the grant administration phase of the project. This is something Ray mentioned. With the new regulations we have an opportunity to increase or decrease our bonding requirements, we can modify the terms and conditions of the grant to respond to the environmental conditions that we see on the ground, we can raise the limit of strict liability if it's appropriate. The new regulations require grantholders to comply with federal hazardous materials requirements and to clean up any spills that may occur. Our resource specialists should be glad to see these changes and as a manager I'm happy to see that we have some increased flexibility in the administration of the right-of-way grant.

S. Snook: Thank you, Ed. It seems it will be more important than ever to include more of your employees in the cost recovery determination and customer service aspects of right-of-way processing. Now I would like to turn to Scott Forsell, a realty specialist from the Coeur

D'Alene field office. Scott has been on the right-of-way regulation team since its inception in 1999. So the big question for you, Scott, is, what's new and different in these regulations our listening audience needs to pay particular attention to?

S. Forsell: Well, Stephanie, if you would have told me five years ago when we first started this process that, first of all, it would take five years to actually do it, and, second, that I would be the individual sitting here warming this seat today, I'd have been a lot of money against you. But here we are. Actually, the basic right-of-way process hasn't changed that much. The changes people seem to be most interested in deal with cost recovery. The new regulations we're abandoning the old method of determining cost recovery fees based on the number of field trips. In many cases the old method just didn't get at what it cost to really process an application and it ended up being somewhat confusing. The method we've adopted in the new regulations is to determine the cost recovery category based on the number of federal work hours needed to do process the application. We estimate all the time needed to do process the application, including work hours required by the realty specialist, the manager, the resources staff, including the wildlife biologists, the archaeologists, the botanists, minerals staff, fluids staff, the adjudicator, anyone who is involved with processing a right-of-way application.

We've developed a new processing category form to assist the field office with estimating the number of federal, and I mean BLM, work hours involved. The form will be posted on the website. But the form has some basic information at the top about the applicant and the proposed use, it's followed by checkboxes for the land use plan conformance and NEPA requirements, and it's followed by a listing of potential individuals involved in processing the application, with the total number of hours required. It includes a decision at the bottom by the authorized officer as to what the category is. Here's the processing fee schedule by category, which will also be available on the website. There are six categories now. As you can see, the categories are based on the number of work hours required to process the application. For applications that require less than one hour to process, yeah, right, there's no charge. But for applications that require between 1 and 8 hours to process, the fee is \$97, et cetera, as it goes through.

Now, categories 1 through 4 are considered minor categories. This closely resembles the old fee schedule except it's determined by work hours, not by field trips, and the up fees had been updated. The fees will continue to be updated annually just like the linear rent schedule. It's important now when calculating work hours that you include only the BLM hours, not other federal agencies. As Ray mentioned, there is also a new category for master agreements, category 5, which we'll explain in just a minute. Any application that requires more than 50 hours to process is a category 6, which is a major category, which requires the applicant to reimburse BLM for the full cost of processing the application. It also requires a cost recovery agreement. This is all changed from the final -- or the old regulations. We anticipate that there will be more major category right-of-way applications with a cut Huff date of 50 hours in the schedule. Here's a basic cost recovery agreement for category 6 applications. It will also be available on the website. A lot of field

realty people haven't done a cost recovery agreement before, so we're working on guidance and sample templates to try to make the transition as easy as possible. Another change in the regulations is that the monitoring category is no longer going to be linked to the processing category. We've split them apart. Under the old regulations the category used for processing, say, category 3, was the same category that had to be used for monitoring.

With the new regulations, the monitoring category is determined separately from the processing category. It's determined just like the processing fee, estimating the number of hours required by the realty specialist, the resource specialist, engineers, et cetera, to monitor activities that are allowed under the grant. For example, a right-of-way application to construct a short segment of new road may require a category 3 processing fee. However, if that road is alongside a Salmon spawning stream, there may be considerable effort involved in monitoring the construction and use of the road. In that case, the work hours required to monitor the grant may be higher than the processing category. The monitoring category could be a category 4 or even a category 6. We've developed a new form for estimating the hours involved in monitoring a right-of-way grant. The form will also be posted on the website. The forms laid out just like the processing category form with a listing of potential individuals that might be involved in monitoring a grant, a total number of hours estimated, and the field manager's determination of the appropriate category.

S. Snook: So, Scott, in the old regulations the processing and monitoring categories were the same and done in the beginning of the process. Now with the new regulations, when do you determine the monitoring fee?

S. Forsell: With the new regulations, we'll estimate the number of hours required to monitor the grant after we've completed the environmental analysis and we can see the mitigation and the work hours that will be required to monitor the project. Here's the monitoring fee schedule. As you can see, it includes the same dollar amount as the processing fee schedule because it's also based on work hours needed to monitor the project. Because the processing category and the monitoring category are now separate, two separate decisions will be required, one for processing and one for monitoring. And each of them are appealable decisions. On the website we'll include a sample decision letter that incorporates several decisions we commonly use towards the end of the right-of-way application process. Grant issued, rental determination and monitoring fee determination. It reflects a slightly different twist on how things are done now. The processing and monitoring fee schedule will be updated every year, just like our rental rates, based on the I.P.D. and inflation index.

S. Snook: So if we're hearing correctly the new processing and monitoring fees will be based on work hours, not field trips, the processing and monitoring fees will be determined independently of each other, and there will be separate decisions issued for the processing and monitoring fees?

S. Forsell: That is correct.

S. Snook: There is a new category, category 5, reserved for master agreements. With us today is Lucas Lucero, a project manager in the Las Vegas field office. Lucas implemented the bureau first pilot project involving master agreements. He is currently managing a master agreement with the Nevada power company. Lucas, tell us about master agreements.

L. Lucero: Okay. Stephanie, the new regulations provide for right-of-way master agreements which can be authorized under FLPMA or the mineral leasing act. For many of you this is probably the first time you've heard of a master agreement, so I'll explain what they are and how they can be used. A master agreement is a negotiated agreement between the BLM and an applicant which covers the processing and monitoring of multiple applications in a specific area. So think every it as kind after memorandum of understanding for numerous right-of-way projects. As you can see, the basic format of the master agreement is pretty straightforward. It begins with the standard heading, purpose and authority sections. Next is the heart of the document, which includes the scope of the work activities, cost reimbursement and also billing. This is where the agreement should be tailored to suit the needs of the applicant and the field office.

At the end of the document are the termination and effective date sections. You will also notice there is an other provisions section which captures any activities not mentioned previously. This section should also be modified to suit your particular situation. Now, as Scott mentioned earlier, the appropriate cost recovery category for master agreement applications is category 5, for both processing and monitoring fees. Under category 5 the federal work hours vary depending on the number of projects the applicant has and by signing the master agreement, the applicant agrees to pay the actual costs for processing and monitoring the projects. As most of you know, for major category right-of-way projects we currently establish accounts under the 5101 subactivity and track our expenses in MIS and with reimbursable project logs. A similar process has been established for master agreements. The National Business Center has created a 5103 subactivity project and subproject accounts specifically for master agreements. These will enable us to track our collections of funds and charges to individual projects in MIS like we're already doing for major category rights-of-way.

The Washington office will be issuing an I.M. that explains how to establish and manage these accounts. Some of you may be wondering how master agreements affect LT2000 or the Alaska land information system. Well, new action codes have been developed which will allow the bureau to track the number of master agreements and also the subsequent rights-of-way. These new coding standards will be outlined soon in an instruction memo as well. I would like to talk about the potential benefits and briefly describe an agreement already being used. Here's some things for field offices to consider. In Las Vegas we implemented a pilot master agreement with Nevada power company, which covers the processing and monitoring of all of the right-of-way applications and grants within the field office jurisdiction. The scope of the agreement includes all amendments, assignments, renewals and terminations. In the master agreement, Nevada power provides funding for a permanent team to manage their projects. Now, in our initial year of working under the agreement, we were able to meet Nevada power's needs for consistent and

timely processing of applications. We improved our working relationship, we processed over 85 new applications, while eliminating over 100 backlog applications. We also cleaned up our records in LR2000 and also provided Nevada power with detailed reports of expenses. I want to emphasize that master agreements are not a requirement, but a new tool that field offices may find useful in some circumstances to manage numerous applications from one customer.

S. Snook: Do you think that every field office will use a master agreement?

L. Lucero: No, I don't, Stephanie. Master agreements are a tool that can be tailored to meet the needs of applicants and field offices, like the situation we have in Las Vegas where we have tremendous population growth and also in offices that have large oil and gas development. So I can foresee some offices may never need an agreement and some may use agreements with several proponents.

S. Snook: So now I would like to ask you, Ed, as a field manager, what benefits to you see to using a master agreement in the field office?

E. Roberson: Like most field managers, our field office will be looking at the master agreement to see if it has application and benefit to our office and our customers. If we field that this will streamline -- if we feel this will streamline our operations we will take a serious look at it. I do believe as Lucas said that it will have particular application in our Farmington and Carlsbad offices where they have significant rights-of-way workload relating to oil and gas and a small number of companies, particularly in Farmington in that light of the shrinking budgets, we will look more closely at the master agreement which would allow us to reduce some of our backlog, as Lucas mentioned, while using cost recovery funds.

S. Snook: Thank you, Ed. Now that we've learned about the new category 5 involving master agreements, Scott, what are some of the of the changes in the new regulations?

S. Forsell: Well, Stephanie, as Ray mentioned earlier, customer service is a high priority with our applicants. Our current customer policy -- our current policy on customer service requires field offices to process a right-of-way application within 30 days and to notify the applicant if the application cannot be processed within 60 days. The new customer service standard is now regulatory and it requires BLM to process a category 1 through 4 application within 60 days. This effectively doubles the current processing time requirement. If we do not foresee being able to process an application within that time, we're required to notify the applicant by the 30th day of receiving the completed application and to include the reason we will not be able to process the application within that 60-day period. We're also required to inform the applicant of the date we do expect to be able to issue a decision on the application. Now, a lot of this customer service standard depends on what's considered a completed application, because many of the applications we receive may not be complete in one respect or another. We consider a completed application to contain all the information needed to do process the right-of-way request, including the appropriate processing fees. So our time clock doesn't begin until the applicant has sent in the processing fees. I mentioned that we're

required to send a letter to the applicant by the 30th day if we can't process their application within 60 days. The website provides a sample letter to the applicant which we're loosely calling the 29th day letter.

S. Snook: Thank you, Scott. It sound like to process makes good business sense. Now I would like to ask you, Ed, again from the field perspective how do you think these new customer service standards will affect you?

E. Roberson: Stephanie, it is important for us to follow the new standards because they are, after all, now regulatory requirement. The new standards will require us to track applications more carefully and to pay particular attention to the deficiencies in the application, as Scott mentioned. Obviously the clock is ticking and we need to be able to respond to the applicant within 30 days -- that 30-day window. If we can't complete the application within 60 days. In the event we can't meet this time frame, we owe it to our customer to provide them a date when they can reasonably expect us to complete the work on their application. We'll have to determine how best to meet these customer service requirements taking our office -- within our office by taking a look at what does happen when and how.

S. Snook: Thank you, Ed. Scott, what are some other changes in the new regulations that you'd like to cover today?

S. Forsell: Well, there are some changes to the terms and conditions of a grant. To simplify and standardize the length of the grant, the term, the first partial year of the grant is considered the first year of the term. For example, if a grant is issued in July, this partial year is the first year of the grant term, even though it only involves five months. All grants, except those issued for a term of one year or less will expire on December 31st of the final year. These changes are particularly important to rights-of-ways issued under MLA, which cannot exceed a 30-year term. New MLA grants and renewals to MLA grants will now be issued for 29 years and X number of months, not 30 years. Let me cover three other changes to the regs that involve terms and conditions of a grant.

First, in the new regulations, BLM is allowed to change the bonding requirements any time during the life of the grant, whereas right now once grant is issued, the bond cannot be changed. Second, in certain circumstances, it allows BLM to change the terms and conditions over the life of the grant. For example, if a new species is listed under the endangered species act, we can change the terms and conditions of the grant to protect that species. Third, the new regulations raise the limit of strict liability from \$1 million in the old regulations to \$2 million. That figure will be indexed for inflation the same way as our rent schedules and category determination schedules.

There are also some changes to rent collections. It's important to note that there are no changes to the rent schedule for rights-of-ways. But there are changes in how we collect the rent. First, how we calculate rent has been simplified. We now begin calculating rent on the first of the month following the date of issuance of the grant. For example, if a grant is issued on July 6th, the rent doesn't begin until August 1st. We've also made some changes to our billing process which should make

those of us involved in billing very happy. First, for rent due on January 1st, there will no longer be any courtesy billings. The new bill will be an accounts receivable bill payable upon receipt. There are ought late charges, too. If rent isn't received within 15 calendar days of the due date the late charge per authorization is \$25 or 10% of the amount due, whichever is greater up to \$500 per authorization. If payment is not received within 30 calendar days after it's due, we'll add other administrative charges. If payment is not received within 90 days, the new regulations emphasize that the grant can be terminated for nonpayment of rent. There are also changes in rent payment options for those under the linear fee schedule.

With the new regulations right-of-way holders will now have the option of making a one-time rental payment for the entire term of the grant. For grants issued in perpetuity under FLPMA, the payment will be based on the annual rent times 100. If the holder chooses not to make a one-time payment their only other option is to pay at 10 year intervals. The exception of this is for individuals with rent over \$100 per year. Those individuals may elect to pay rent either annually or at multi-year intervals.

S. Snook: I think you're right, Scott, this rent payment option to made it easier for BLM and the right-of-way holders. When do these rent payment options take effect?

S. Forsell: For now, just keep in mind that the rent payment options will be implemented with the holders on their next billing, which for most people the soonest is going to be January 1st much 2006. -- of 266. Additional information will be coming out on how to implement the rent payment options. For new applicants we will offer them the rent payment options when we issue the grant.

S. Snook: Thank you, Scott. Ray, can you tell us how do these changes in rent payment options come about?

R. Brady: Stephanie, the billing process for rental payments costs BLM a lot of time and money, particularly with right-of-way grants that have small rental charges. In addition, some of our right-of-way customers have complained about the costs to process their bills received on an annual basis. The new regulations come in response to both our concerns and our customers' concerns and are an attempt to reduce costs and paper work involved in the billing process.

E. Roberson: There are several rights every way holders in my field that could get increased rent bills the first billing cycle because of the change in this payment option. Are we going to do something to accommodate these types of situations?

R. Brady: Yes, we are, Ed. We're aware of that concern and we're working internally to allow a three-year phase-in period for those rental payments. We'll provide more guidance to field offices for that process to phase in those payments -- payment options in the future.

S. Snook: Thank you. Now, Scott, back to you.

S. Forsell: Well, Stephanie, there is no longer a flat \$50 fee for right-of-way assignments. Under the new regulations, we're required to

complete a cost recovery determination form for assignments and charge for the appropriate category. For example, a single assignment that takes between 1 and 8 hours to process would be a category 1 fee if that however, if you receive a request from a company for 30 assignments, you would estimate the total hours need to do complete the request rather than simply charging them 30 times the category 1 fee. Renewals are another area that are going to be subject to cost recovery. They are no longer free. Instead, we'll estimate the number of hours needed to do process and monitor the request and charge according to the fee schedule. The new regulations also clarify our opportunity to change the terms and conditions when we renew a right-of-way grant. So we'll also do a monitoring category determination for renewals in the event that the new terms and conditions require monitoring. The customer service standard also applies to renewals and assignments.

S. Snook: It sounds like the regulations have added some consistency in how we determine the cost of processing and monitoring rights-of-ways, as well as renewals and assignments. We use the same category determination forms for each of these and the customer service standards apply to all these actions.

That's right, Stephanie. There are three additional areas I would like to cover today. First, for those every you that deal with land exchanges and land sales, the new regulations allow us to issue an actual easement for facilities authorized by a right-of-way grant when the public land involved is being transferred out of BLM ownership. The effect of an easement will be to ensure that the authorized use will be allowed to continue after the BLM land is that disposed of. Easements authorized under FLPMA would be issued in perpetuity. While easements authorized under MLA would be issued for term of 30 years because of MLA statutory requirements. Issuing an easement will make right-of-way administration much more consistent with private land practices. The Washington Office is putting together some guidance on the applicability of easements and an easement format.

Trespass is another area that's changed and for those of you that's been to the lands category, you know how near and dear that is to my heart. In the new regulations the minimum penalty for re solving a trespass is now set at category 2, which is \$343 for 2005. Keep in mind that the category changes -- or the category charges will change annually with the I.P.D., that inflation index. The last area of change I would like to cover today is the way we deal with right-of-way requests from federal agencies. Under the new rule, federal agencies will be subject to cost recovery just like any other applicant, although they'll remain exempt from paying rent. Now, state and local governments, of course, continue to be exempt from cost recovery and rent just as they've been in the past. Stephanie, that about wraps up the major changes between the old regulations and the new ones.

S. Snook: Scott, thank you for covering these major differences in the new regulations. Now I would like the football answer some questions that were sent in prior to the broadcast. First question is for you, Ray. We've heard about how the regulations affect the processing of new applications, renewals and assignments. How do these regulations affect existing authorizations?

R. Brady: The new regulations apply to both new and existing rights-of-way issued under both FLPMA and the mineral leasing act. And they also apply to all rights-of-ways issued under previous laws that were repealed by FLPMA but only to the extent that they don't diminish the holders' rights under those previous laws.

S. Snook: Scott, a question for you. If the applicant pays for an outside party to do the environmental work needed for an application, are there any federal work hours involved?

S. Forsell: Yes, there are. Although the major work of the resource specialist may have been reduced, there is still BLM time required to adjudicate the application, to review and approve the environmental work done by the applicant, to prepare the authorization, and to review it with the manager. Now, in that case the BLM work hours may have been reduced, but they are not eliminated.

S. Snook: Great. Thank you, Scott. Lucas, here's a question on master agreements. Does a processing and monitoring category decision letter need to be done for each application that you process?

L. Lucero: That's a good question. No, actually, it doesn't. A master agreement contains fees and other financial arrangements that are agreed to in advance by both the applicant and the BLM. So by agreeing to these terms up front, no formal cost recovery decision letter needs to be done for each application. But keep in mind a decision is still needed for the issuance of each grant under a master agreement. Just like any other application.

S. Snook: Great. Thank you. Ray, by like to ask you a question about the easement concept that Scott talked about. We haven't done easements under a right-of-way authority before, so why are we going to be doing them now?

R. Brady: Well, first of all, I want to emphasize that the only situation in which BLM would consider the issuance of an easement would be when the lands involved in an existing right of waive authorization are being disposed of, whether that be by land exchange or land sale. Our customers have expressed concerns for a long time about how BLM right-of-way grant is administered after the BLM land is transferred to a private party. I think the new regulations respond to those concerns. An easement will give the right-of-way holder the same rights on private land as the holder had on federal land, but in a format that is consistent with private practices. A holder would have to apply for an easement and issuing an easement would involve cost recovery and rent. We'll soon have guidance in the form of some I.M.s and manuals to assist BLM field offices in preparing easements when they're appropriate. We'll also have some information about easements on our website.

S. Snook: Thank you, Ray. A question for you, Ed. How will the new billing procedures affect staff in the field offices?

E. Roberson: Well, initially, Stephanie, I think that there will be an increased workload as we ask those grant holders if they want to be billed periodically or if they want to be billed for the full term of the grant. It will take some effort on the part of the billing folks in

our offices to change the billing cycles and to phase in rent for the large grant holders as Ray mentioned. However, in the long run, I think the new billing procedures will save us a substantial amount of time and money. Let's face it, billing in 10-year cycles or for the full term of the grant beats an annual billing or a five-year billing any time.

S. Snook: Thank you, Ed. Scott a question for you about the customer service standard. Did you say that the 60-daytime clock begins when we receive the applicant's processing fees?

S. Forsell: Not necessarily, Stephanie. Not only do we have to receive the processing fees, but the application must also be complete. The application must contain all the information we need to process it before it's considered complete. If we receive the processing fees in an -- and an incomplete application, the 60-daytime clock doesn't begin until the applicant has provided us with the additional information we request.

S. Snook: Thank you. Ray, do these new cost recovery fee schedules apply to more than just rights-of-way?

R. Brady: Yes, they do, Stephanie. The existing cost recovery regulations also apply to 43CFR2920, permits and leases, and the new regulations will as well.

S. Snook: Thank you. Scott, a final question for you. Do communication site holders have the rent payment option as well?

S. Forsell: No, they don't. The rent payment option applies only to those holders who are on the linear fee schedule. If -- it does not apply to site-type rights-of-ways such as wind energy developments or communication sites.

S. Snook: Thank you. I'd like to take a few minutes to review the major changes in the right-of-way regulations that the panel members have discussed today. The cost recovery fees including processing, monitoring, renewals and assignments will be determined based on the number of federal work hours instead of the number of field trips. The processing and monitoring categories are separate decisions. Cost recovery fees will be updated annually just like the rent schedule. Federal agencies are now subject to cost recovery. There is a new category 5 for master agreements. And the regulatory customer service standard application should be processed within 60 days. If we can't process the applications within 60 days, we are required to notify the applicants within 30 days. There have been changes to the rent collection proceedings, including an automatic late charge. Changes in rent payment options, including a one-time payment for the term of the grant. We can now also issue ease, as Ray mentioned when lands are to be sold or exchanges. Now I would like to ask the panel members if they have any final thoughts for points of classify clarification. Scott, let's start with you.

S. Forsell: I would simply like to encourage BLM field staff to take some time to read the regulations when they're published in a few weeks. It will change the way we do business.

S. Snook: Thank you. And I do think it will be important that folks watch for the publication of those new regulations. Lucas, any final thoughts?

L. Lucero: Yes, I would like to add that the master agreement has worked very well for us in Las Vegas, and I would encourage those offices out there with heavy right-of-way workloads from repeat customers to give master agreements a serious consideration.

S. Snook: I think master agreements are a new tool, and they'll be useful for many of you. Ed, any final remarks?

E. Roberson: Well, all of our field offices struggle, Stephanie, with the type of demand work that rights-of-ways present to us, especially with changes in staff and reductions in budget. These new regulations will streamline some of the processes and give us the resources to get the job done on the ground.

S. Snook: I'm sure it's going to continue to be a challenge to manage the heavy workloads. Ray, your final thoughts, please.

R. Brady: Thank you, Stephanie. As Fran Cherry indicated at the beginning of our presentation today, it's important that our BLM field offices properly identify the appropriate cost recovery category under the new regulations and adhere to our customer service standards. We need to ensure the collection of reasonable cost recovery fees but also provide for the level of service our customers expect. Stephanie, I'd like to thank you for moderating our panel discussions today. Good job.

S. Snook: Thank you.

R. Brady: I would also like to thank the other panel members that are here today. And also encourage everyone to look for more information on the BLM right-of-way regulations as they become available. Thank you.

S. Snook: Thank you, Ray. In anticipation that you might be asking, where do we go from here, I think you'll find some very useful information on both the internal and external websites once the regulations are published. The internal website will include a PowerPoint presentation covering the background and major changes involved with the new right-of-way regulations, there will be sample forms, letters and cost recovery agreements, a sample master agreement, summary of changes between the old regulations and the new regulations, including the customer service standards, there'll be a section on frequently asked questions and answers, and at this site a link will -- on the internal website will allow you to submit questions to the right-of-way regulation team who will answer the question and post them to the website. If, for example, you're looking for instructions on how to process right-of-way applications received in the 60 days between the time when the regulations are published and when they become effective, please check the FAQ section of the website.

For those of you outside BLM, we encourage you to contact the local BLM field office with any questions once the regulations become effective. The external BLM website, which you see on your screen is located by going to the BLM national homepage at WWW.BLM.gov, then click on "what we do," then look for the new right-of-way regulations link. You can

all look forward to receiving additional guidance in the form of instruction memos that Ray mentioned and for statewide or regional training opportunities. Well, this brings us to the conclusion of the broadcast today. Thank you and so long from Phoenix!